

R865. Tax Commission, Auditing.

R865-150. Oil and Gas Tax.

R865-150-1. Oil and Gas Severance Tax Pursuant to Utah Code Ann. Sections 59-5-102 and 59-5-104.

A. Definitions

1. "Person" means any individual, partnership, company, joint stock company, association, receiver, trustee, executor, administrator, guardian, fiduciary agent or other representative of any kind.

2. "Operator" means any person engaged in the business of operating oil or gas wells, whether as a working interest owner, an independent contractor, or otherwise. An operator who is also a working interest owner shall be referred to as a producer.

B. The proportion of the annual exemption an operator is entitled to shall be reduced by any exempt royalties.

C. Owners who take production in kind and report and pay their own tax shall receive a proportionate share of each operator's exemption from whom production in kind is taken.

D. For those who are required to report and pay the tax on a quarterly basis, the annual exemption taken for each quarterly installment shall be the lesser of one-fourth of the annual exemption, or an amount that reduces the installment to zero.

E. For purposes of filing the statement required under Section 59-5-104, if working interest owners engage in a unitization agreement or other business arrangement in which someone other than themselves are conducting the operations of an oil or gas lease, then:

1. Each such working interest owner, who receives a share of production in kind, must file the statement required in Section 59-5-104. The operator of the well must inform the Tax Commission, on forms provided by the Tax Commission, of any party taking production in kind.

2. A working interest owner may enter into an agreement with the lease operator requiring the lease operator to distribute the proceeds from the purchase or sale of oil and gas production to the working interest owners and any other parties claiming an interest through them.

3. Working interest owners who are parties to the unitization agreement or other business arrangement may designate the operator as the person who shall file the statement on behalf of all working interest owners. For such arrangements to be recognized by this state, the designated operator must also be empowered to deduct, from the share of each interest owner, the tax imposed under Title 59, Chapter 5, Part 1.

4. If a designated operator fails to file the tax return, or files a false, fraudulent, or otherwise inaccurate statement, or fails to pay the full amount of the tax due, the primary and ultimate liability for the statement and the tax shall rest solely upon the producers or interest owners.

a) If the designated operator fails to file and pay the tax due, the state shall hold a hearing and is no longer bound by any arrangement between the parties.

b) Nothing in Subsections (2) through (4) shall deprive the Tax Commission of the authority to require each working interest owner to file the required statement where the Tax Commission determines that a jeopardy situation exists.

F. A person entering into an agreement during the taxable year shall file a return covering independent production prior to entering the agreement. The allowable

exemption on the independent production is one-twelfth of the prorated annual exemption for each full month of independent operation during the year.

Effective: 11/1/97